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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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EXAMINER

ZEC, FILIP

ART UNIT

3744

PAPER NUMBER

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/608,047

Applicant(s)

CHASTINE, GARY LESTER

Examiner

Filip Zec

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/03 and 2/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 3-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The applicant claims a three-compartment refrigeration system but does not specify how the system's space arrangement is set up, specifically what the relationship between the compartments are. Which compartment is the low compartment and which compartment is the upper compartment? What is the spatial relationship between the mode changing compartment and the refrigeration compartment? Is the evaporator chamber in the freezer compartment or in the refrigeration compartment? Since the claims are too ambiguous in scope, no prior art could reasonably be applied to the claims. However, this is not to be a presumed indication of allowable subject matter.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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5. Claims 3 (lines 1-3) and 5 (lines 2-3) recite the limitation "said upper compartment".

There is insufficient antecedent basis for this limitation in these claims.

6. Claims 4 (lines 1-3), 5 (line 2) and 6 (line 2) recite the limitation "said lower compartment". There is insufficient antecedent basis for this limitation in these claims.

7. Claims 5 (line 3) and 7 (line 2) recite the limitation "said damper". There is insufficient antecedent basis for this limitation in these claims.

8. Claims 5 (line 3) and 7 (line 1) recite the limitation "said duct fan". There is insufficient antecedent basis for this limitation in these claims.

9. Claim 6 (line 1) recites the limitation "said duct". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,758,512 to Peterson et al. Looking at FIG. 2 of Peterson, one notices a refrigerator comprising a refrigeration compartment (30), a freezer compartment (26) and a third compartment (34) controllable in both refrigeration and freezer modes (col 7, lines 35-38).

12. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,055,826 to Hiraoka et al. Looking at FIG. 12 of Hiraoka, one notices a refrigerator comprising a

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refrigeration compartment (100), a freezer compartment (250) and a third compartment (700) controllable in both refrigeration and freezer modes (col 10, lines 48-56).

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 8-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,551,252 to Lee, in view of U.S. Patent 5,758,512 to Peterson et al. Lee discloses applicant's basic inventive concept, a refrigerator system, comprising an upper compartment (15, FIG. 1) including an evaporator (17) and a fan (18) therein, both enclosed within a chamber (H) having a cover (19) with an inlet (21, FIG. 2) vent and an outlet (28) for a duct (80) containing a gate damper (51), which connects the upper compartment to a lower compartment, said lower compartment (32) separated from the upper compartment via a dividing wall (30) having a top and bottom surface, and having a supply conduit (80) which connects the upper and lower compartments and a secondary duct (75) for air communication between the two compartments when the damper is open, said fan circulating partially evaporative air when the damper is sealed (col 5, lines 17-28), substantially as claimed with the exception of having a secondary fan in the duct and a lower compartment being pulled out like a drawer. Peterson shows a secondary fan (54) in a duct (see FIG. 3a) and a lower compartment (32) being pulled out like a drawer (see

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FIG. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Peterson to modify the system of Lee, by adding a secondary fan in order to improve the flow control through the duct and a drawer compartment in order to improve the accessibility of the refrigerator.

15. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,758,512 to Peterson et al., in view of U.S. Patent 6,405,548 to Hollenbeck. Peterson discloses applicant's basic inventive concept, a refrigerator comprising a refrigeration compartment (30), a freezer compartment (26), a third compartment (34) controllable in both refrigeration and freezer modes (col 7, lines 35-38) and a duct (52'', FIG. 13) containing a fan (144) and a damper (148) for flowing the air from the freezer towards the multipurpose compartment, substantially as claimed with the exception of stating that the freezer and refrigeration compartments are parallel to each other. Hollenbeck shows freezer (104) and refrigeration (102) compartments parallel to each other (FIG. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Hollenbeck to modify the system of Peterson, by having both the freezer and refrigeration compartments parallel to each other in order to improve the access to the freezer compartment.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 6,327,867 to Hyodo, Akira et al. and U.S. Patent 6,497,113 to Yamada, Hiroshi et al. teach refrigeration systems comprising three compartments.

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U.S. Patent 4,689,966 to Nonaka, Hikaru et al. teaches a refrigeration system comprising a compartment used as both a freezer and a refrigerating compartment.

U.S. Patent 6,447,083 to Chiapetta, Don et al. teaches a refrigeration system comprising a pull out drawer compartment.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Filip Zec whose telephone number is (703) 306-3446. The examiner can normally be reached on Monday through Friday, with the exception of every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on (703) 308-2597. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Filip Zec
Examiner
Art Unit 3744

FZ


DENISE ESQUIVEL
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